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April 20, 1998

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VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: MM Docket No. 87-268

Dear Ms. Salas:

On behalf of Ramar Communications, Inc., licensee of television broadcast station KJTV, Channel 34 at Lubbock, Texas, I am transmitting herewith an original and eleven copies of its Petition for Reconsideration (the "Petition") in the above-referenced proceeding.

A facsimile copy of the Engineering Statement of Thomas M. Wimberly is attached to and made a part of the Petition. The original Engineering Statement is being delivered to counsel and will be submitted to the Commission as a supplement to the Petition upon receipt.

Should there be any questions concerning this matter, please contact the undersigned counsel.

Very truly yours,



Ross G. Greenberg

RGG:rg
Enclosures

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Advanced Television Systems and)
Their Impact Upon the Existing)
Television Broadcast Service)

MM Docket No. 87-268

To: The Commission

PETITION FOR RECONSIDERATION OF RAMAR COMMUNICATIONS, INC.

Ramar Communications, Inc. ("Ramar"), by its attorneys and pursuant to Section 1.106 of the Commission's Rules, hereby seeks reconsideration of the Commission's February 23, 1998, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, FCC 98-24 ("Reconsideration MO&O"), in the above-captioned proceeding.^{1/}

I. CHANGES MADE IN THE DTV ALLOTMENT TABLE ON RECONSIDERATION HAVE A SUBSTANTIAL NEGATIVE IMPACT ON RAMAR'S STATION KJTV, LUBBOCK, TEXAS, WHICH AMPLY JUSTIFIES THIS PETITION FOR RECONSIDERATION.

Ramar, a multiple station owner, has actively participated in this proceeding in order to, inter alia, maximize its ability to continue to offer over-the-air television service in the digital era to the various communities which it serves. To that end, it filed comments in this proceeding on December 4, 1996, and a petition for reconsideration on June 13, 1997. Ramar's pleadings were

^{1/} Public Notice of the Reconsideration MO&O was given in the Federal Register on March 20, 1998, 63 Fed. Reg. 13546 (1998), and this petition is therefore timely filed under 47 C.F.R. §§ 1.106(f), 1.4(b)(1).

premised on the reasonable expectation that its full-power stations would be protected during the DTV transition and that its DTV allotments would, to the maximum extent possible, replicate the coverage of its existing NTSC facilities, including pending applications to improve those facilities. See Ramar's June 13, 1997, Reconsideration Petition in this proceeding at 5-6. The Sixth Report and Order, FCC 97-115, in this proceeding (the "Sixth R&O"), adopted a DTV Table of Allotments which established that Ramar's Channel 35 DTV allotment for KJTV, Lubbock, Texas, currently operating on Channel 34, would afford it a 100% DTV/NTSC area match with its current facilities. Sixth R&O at B-40. However, the new DTV Table of Allotments included in the Reconsideration MO&O shows that the Channel 35 DTV allotment gives the station only a 94.5% DTV/NTSC area match. Reconsideration MO&O at B-37.

This dramatic reduction in area match apparently results from the Commission's decision to reallocate DTV Channel 35 in Roswell, New Mexico, for KOBR, as shown in the DTV table of allotments which is Appendix B to the Reconsideration MO&O. In the Sixth R&O, KOBR had been allocated Channel 38. As set forth in the Engineering Statement of Thomas M. Wimberley which is Attachment 1 hereto (the "Engineering Statement"), Ramar personnel have been informally advised by Commission Staff that KOBR's DTV channel was reallocated solely to accommodate an existing low power television/television translator station or permit. As a reallocated co-channel station, KOBR will materially interfere with the signal of Ramar's station, significantly diminishing its coverage. The Commission should not allow its desire to preserve an LPTV station to have such a negative impact on the viability of an existing full-

power station. This petition is appropriate, as it relates to a change effectuated in the Reconsideration MO&O, and this is Ramar's first opportunity to seek reconsideration of this matter. 47 C.F.R. § 1.106(c)(1) allows the grant of petitions for reconsideration where the petition relies on circumstances which have changed since the last opportunity to present such matters. See also 47 C.F.R. § 1.106(m) and 47 U.S.C. § 405 (the Commission must be afforded an opportunity to pass on a matter as a condition precedent to a judicial appeal).

II. THE COMMISSION SHOULD MAKE THE NECESSARY CHANGES IN ITS TABLE OF ALLOTMENTS TO REINSTATE KJTV'S 100% SERVICE AREA REPLICATION

Certain changes by the Commission on reconsideration of the DTV Table of Allotments have improperly and inequitably reduced KJTV's NTSC and DTV coverage and require reconsideration. First, in assigning Channel 35 to KOBR, the Commission has created a severe minimum geographic short spacing that is inconsistent with requirements set forth in Commission rules. Pursuant to 47 C.F.R. § 73.623(d)(1), which governs new allotments to be made after adoption of the initial DTV allotment table, there is a 223.7 km spacing requirement for DTV to DTV co-channels in Zones II and III. However, as the Engineering Statement makes clear, the proposed allocation creates co-channel stations on Channel 35 that are only 176.85 km apart, far short of this requirement.

Second, there is a viable solution to the problem -- returning KOBR to Channel 38 and moving NTSC Channel 13 Lubbock back to Channel 40 from Channel 38 (which it was assigned in the Reconsideration MO&O). See Engineering Statement. NTSC Channel 11 Lubbock can

also be moved back to its original DTV allotment, as can NTSC Channel 29, Hobbs, New Mexico. *Id.* Indeed, Ramar believes the Commission should explore all alternate options before allowing interference to any full power station in the interests of preserving a *secondary* service.

Finally, the changes in the DTV Table contradict the Commission's own declarations contained in the Reconsideration MO&O. The Commission, in analyzing situations in which DTV channel allotments for full service stations could be changed to protect low power stations, stated that in 66 cases, "a channel change could be made that *would not affect the operations of full service stations*. . . . We therefore are modifying the DTV Table to adopt these 66 DTV changes." Reconsideration MO&O at ¶ 106 (emphasis added). As explained above, however, one of these channel changes *does* negatively affect the operations of Ramar's full service station KJTV. Throughout these proceedings, the Commission has made it abundantly clear that its "decision to retain the secondary status of low power stations with regard to digital television and other new primary television services is appropriate." *Id.* at ¶ 105. The Commission has further stated that "[a]s secondary operations, low power stations must give way to new operations by primary users of the spectrum, including in this case new full service DTV stations operated by existing broadcasters under our DTV implementation plan." *Id.* The Commission has not followed this rubric, however, in decreeing that Ramar's full service station signal suffer reduced coverage for the sake of LPTV. The Reconsideration MO&O states at n. 75 that in its effort to preserve existing low power/TV translator service, full power "[r]eplacement channels were considered acceptable if they would provide the same replication as a station's existing DTV

channel and were within 3 channels above or below that channel.” Despite this policy, KOBR’s DTV/NTSC Area Match dropped from 100% on Channel 38 to 97.2% on Channel 35. As noted, while Ramar’s DTV allotment did not change, its DTV/NTSC area match certainly did, from 100% to 94.5% (a 5.5% loss). Accordingly, the reallocations of KOBR and Lubbock Channel 13 set forth in the Reconsideration MO&O cannot stand. As noted above, changes can also be made to Lubbock Channel 11 and Hobbs Channel 29.^{2/}

There can be no doubt that a grant of this petition would clearly serve the public interest. There is no reason to give a low power service priority over a full service station in the DTV Table of Allotments, to the clear and substantial detriment of the full power station, when Commission policy has consistently made clear that low power operations are secondary services. Prompt grant of the requested relief is therefore respectfully requested.


^{2/} Making matters worse for Ramar, its station already operates with less power than three competing full service stations in Lubbock, Texas, and its station is the only one in the market to face such a dramatic reduction in its coverage under the revised DTV Table of Allotments.

CONCLUSION

For the reasons set forth above, Ramar respectfully requests reconsideration of the Reconsideration MO&O in accordance with this petition.

Respectfully submitted,

RAMAR COMMUNICATIONS, INC.

By 
Dennis P. Corbett
Ross G. Greenberg

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Its Attorneys

April 20, 1998

ATTACHMENT I

See attached Engineering Statement of Thomas M. Wimberly.

Engineering Statement
Prepared by Thomas M. Wimberly
Director of Engineering, Ramar Communications, Inc.

The Federal Communications Commission's Sixth Report and Order released April 21, 1997 allotted KJTV DTV channel 35 with 115.8kW power and 100% DTV/NTSC area match. The FCC's Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, FCC 98-24, released February 18, 1998, revised March 12, 1998 allotted KJTV DTV channel 35 with 121kW power and 94.5% DTV/NTSC service match.

Further review showed that two stations in Lubbock TX, KCBD channel 11 and KLBK channel 13, one station in Hobbs, NM, KHFT channel 29 and one station in Roswell, NM, KOBR channel 8, were assigned a different DTV channel. The Roswell station, KOBR, was changed from DTV channel 38 with 852.1kW and a 100% service match to DTV channel 35 with 839kW power and 97.2% service match. The separation between Lubbock, TX and Roswell, NM is 176.85 km. The Sixth Report and Order proposed spacing standards of 223.7 km for co-channel DTV to DTV in zone II and III. An informal conversation between Ramar staff and the FCC staff indicated that the channel changes were to accommodate LPTV. This change was made at the expense of two full power stations' coverage. FCC staff also said that the short spacing did not cause any theoretical interference, yet the FCC's table shows a loss of coverage of 2004 sq. km combined.

The two stations penalized are KOBR and KJTV as evidence by the service area reduction from 100% to 97.2% and 94.5% respectively. This results in a coverage loss of 1138 sq. km to KOBR AND 866 sq. km for KJTV. Over 2000 sq. km will be deprived of full power TV service to accommodate a secondary service. While the FCC staff believes in theory that there will be no interference, it remains a fact, that a co-channel station with seven times more power is short spaced to the west Texas region of our coverage area. An area that includes the Texas counties of Bailey, Cochran and Yoakum. These counties, comprised mostly of farms and ranches, rely on Lubbock broadcasters including KJTV to provide weather programming, Emergency Alert information in addition to other programming.

It is requested that the FCC return the four affected stations to the original DTV channel assignments, thereby allowing full 100% replication of the NTSC signal coverage.

Date: 4/20/98

Signed: Thomas M. Wimberly